

# Congress of the United States

## Washington, DC 20515

December 21, 2021

The Honorable Janet Yellen  
Secretary of the Treasury  
Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

The Honorable Antony J. Blinken  
Secretary of State  
Department of State  
2201 C Street, NW  
Washington, D.C. 20520

Dear Secretary Yellen and Secretary Blinken,

We are writing to urge you to faithfully and fully implement the Sanctioning the Use of Civilians as Defenseless Shields Act (the “Shields Act”), which was signed into law on December 21, 2018 following its unanimous passage by Congress, as soon as legally feasible.<sup>1</sup> The Shields Act required the President, within one year (that is, by December 21, 2019), and annually thereafter, to submit to Congress a list of, and to impose sanctions on, individuals involved with the use of human shields by Hamas and Hizballah, as well as foreign persons, agencies, or instrumentalities that knowingly and materially support or direct the use of human shields by these groups.

In a presidential memorandum on May 24, 2019, the president delegated “to the Secretary of the Treasury, in consultation with the Secretary of State,” the principal functions and authorities vested in the president by the Shields Act.<sup>2</sup> Until now, there have been no sanctions imposed pursuant to this law. We urge you to prioritize the swift imposition against Hamas and Hizballah of all appropriate Shields Act sanctions.

The use of innocent civilians to shield weapons and fighters from lawful attack – also known as the use of human shields – is a war crime.<sup>3</sup> The extensive use of human shields by Hamas and Hizballah in recent years is well documented.<sup>4</sup>

During the May 2021 conflict, Hamas used human shields in several different ways. For example, Hamas reportedly placed weapons warehouses in several different houses and apartment buildings; installed its military intelligence headquarters next to a kindergarten; and positioned rocket launch sites next to civilian buildings and in a school courtyard.<sup>5</sup> Each rocket

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<sup>1</sup> United States Public Law 115 – 348, Approved December 21, 2018.

<sup>2</sup> “Delegation of Functions and Authorities Under the Sanctioning the Use of Civilians as Defenseless Shields Act.” Executive Office of the President. May 24, 2019. <https://www.federalregister.gov/documents/2019/06/13/2019-12696/delegation-of-functions-and-authorities-under-the-sanctioning-the-use-of-civilians-as-defenseless>.

<sup>3</sup> “Rule 97. Human Shields. The use of human shields is prohibited.” International Humanitarian Law Database, International Committee of the Red Cross. [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule97](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule97).

<sup>4</sup> Kitztrie, Orde. “Time to Act on Human Shields.” *Foundation For Defense of Democracies*. October 15, 2020. <https://www.fdd.org/2020/10/15/time-to-act-on-human-shields/>.

<sup>5</sup> “Operation Guardian of the Walls.” Israel Defense Force Website. May 10, 2021, updated May 16, 2021. <https://www.idf.il/en/articles/defense-and-security/israel-under-fire/>. See also

launched at Israeli civilians from a site amongst Gaza civilians was thus a double war crime, violating the law of armed conflict prohibition on targeting civilians as well as the prohibition on using civilians as human shields.<sup>6</sup> The Office of the United Nations Special Commissioner for the Middle East Peace Process said: “ Hamas & other militants’ indiscriminate launching of rockets & mortars from highly populated civilian neighborhoods into civilian population centers in Israel violates [the law of armed conflict] and must cease immediately.”<sup>7</sup>

Hamas also reportedly situated pivotal intelligence research and operations facilities in the same building as the Associated Press and other foreign journalists; used civilian apartment buildings for military planning and operations; situated weapons factories in the heart of densely populated civilian areas; and located military tunnels under a school and adjacent to a kindergarten, a mosque, and a hospital.<sup>8</sup> The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), which is not known for its support of Israel, made the following statement on June 4 regarding Hamas locating military tunnels under UNRWA schools: “UNRWA condemns the existence and potential use by Palestinian armed groups of such tunnels underneath its schools in the strongest possible terms. It is unacceptable that students and staff be placed at risk in such a way.”<sup>9</sup>

Yahya Sinwar, the top Hamas political leader in Gaza, has made clear that Hamas has a deliberate policy of using Palestinian civilians as human shields. Sinwar said Hamas has “decided to turn that which is most dear to us – the bodies of our women and children – into . . . a dam to prevent the racing of many Arabs towards the normalization of ties with the plundering entity.”<sup>10</sup> Sinwar has further boasted that the plan worked, as “our people have imposed their

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Zitun, Yoav. “IDF attacks arms cache in home of Hamas’ justice minister.” *Ynetnews.com*. May 19, 2021. <https://www.ynetnews.com/article/SJqR1gXYO>, “Operation Guardian of the Walls.” Israel Defense Force Website. May 10, 2021, updated May 16, 2021. <https://www.idf.il/en/articles/defense-and-security/israel-under-fire/>, and Times of Israel Staff. “Photos show Hamas tunnel dug underneath courtyard of UNWRA school in Gaza.” *The Times of Israel*. June 11, 2021. <https://www.timesofisrael.com/photos-show-hamas-tunnel-dug-underneath-courtyard-of-unwra-school-in-gaza/>.

<sup>6</sup> Rule 1. The Principle of Distinction between Civilians and Combatants.” International Humanitarian Law Database, International Committee of the Red Cross. [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule). See also “Rule 97. Human Shields. The use of human shields is prohibited.” International Humanitarian Law Database, International Committee of the Red Cross. [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule97](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule97).

<sup>7</sup> Office of the United Nations Special Commissioner for the Middle East Peace Process. Twitter Post. May 16, 2021, 10:46 AM. [https://twitter.com/UNSCO\\_MEPP/status/1393940810937348098?s=20](https://twitter.com/UNSCO_MEPP/status/1393940810937348098?s=20).

<sup>8</sup> Harkov, Lahav. “Erdan to AP CEO: Hamas worked on anti-Iron Dome tech in AP Gaza building.” *The Jerusalem Post*. June 9, 2021. <https://www.jpost.com/arab-israeli-conflict/erdan-hamas-tried-to-develop-iron-dome-busting-tech-in-ap-gaza-building-670433>. See also “Operation Guardian of the Walls.” Israel Defense Force Website. May 10, 2021, updated May 16, 2021. <https://www.idf.il/en/articles/defense-and-security/israel-under-fire/>, Israel Defense Forces. Twitter Post. May 13, 2021, 2:26 AM. <https://twitter.com/IDF/status/1392727848721559552?s=20>, Times of Israel Staff. “Photos show Hamas tunnel dug underneath courtyard of UNWRA school in Gaza.” *The Times of Israel*. June 11, 2021. <https://www.timesofisrael.com/photos-show-hamas-tunnel-dug-underneath-courtyard-of-unwra-school-in-gaza/>.

<sup>9</sup> “The Neutrality and Inviolability of UNRWA Installations Must Be Respected At All Times.” United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). June 4, 2021. <https://www.unrwa.org/newsroom/official-statements/neutralty-and-inviolability-unrwa-installations-must-be-respected-all>

<sup>10</sup> Sinwar, Yahya. Interview with Al-Jazeera TV. *MEMRI*. May 18, 2018. <https://www.memri.org/reports/hamas-leader-gaza-yahya-sinwar-our-people-took-their-military-uniforms-and-joined-marches>

agenda upon the whole world,” forcing onto “the world’s television screens...the sacrifice of their [Palestinian] children as an offering for Jerusalem...”<sup>11</sup>

Sinwar is reportedly a radical hardliner particularly close to Iran.<sup>12</sup> Sinwar made genocidal threats against Israel as recently as May 26, declaring that Hamas doctrine calls for “the eradication of Israel through armed jihad.”<sup>13</sup> In the same speech, Sinwar expressed his “complete gratitude” to “the Islamic Republic of Iran, which has . . . provided us with money, weapons, and expertise” and “deserve huge credit.”<sup>14</sup>

Imposing Shields Act sanctions on Sinwar and other relevant Hamas leaders would be an important step toward countering the extensive use of human shields against the U.S. and the North Atlantic Treaty Organization (NATO). The Islamic State, the Taliban, Libyan forces, Serbian forces, and Iraqi forces have all used human shields against U.S. and NATO forces.<sup>15</sup>

In 2019, NATO’s Supreme Allied Commander Europe, General Curtis Scaparrotti, called upon NATO member countries to increase their efforts to counter the use of human shields, which he described as “an important obstacle for the effectiveness and success of current and future NATO operations and missions.” Scaparrotti explained that NATO’s adversaries, notably in the Middle East, “have not hesitated to use the prohibited practice of human shields” as it forces NATO troops “to choose between not taking action against legitimate military targets or seeing their actions, and the overall mission, delegitimized.”<sup>16</sup>

In his 2019 request to NATO member countries, Scaparrotti said, “[It] is essential that further measures be taken at the national level to maximize enforcement of the international legal prohibition of the use of human shields.” Scaparrotti specifically urged “imposition of sanctions” and “spotlighting of violations.” Considering the frequency and effectiveness of human shields use against NATO forces, Scaparrotti said that such national measures “would decidedly become a major and substantial contribution” to NATO operations.

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<sup>11</sup> Ibid.

<sup>12</sup> “Yahya Sinwar.” *Counter Extremism Project*. Accessed November 16, 2021.

<https://www.counterextremism.com/extremists/yahya-sinwar>

<sup>13</sup> Sinwar, Yahya. “Victory Speech” aired on Al-Jazeera Network. *MEMRI*. May 26, 2021.

<https://www.memri.org/tv/hamas-leader-gaza-yahya-sinwar-we-have-500-km-of-tunnels-in-gaza>

<sup>14</sup> Ibid.

<sup>15</sup> Kesling, Ben. “ISIS Herds Civilian to Mosul as Human Shields.” *The Wall Street Journal*. October 28, 2016.

<https://www.wsj.com/articles/isis-herds-civilians-to-mosul-as-human-shields-1477675640>. See also Friel, Terry.

“Taliban flee battle using children as shields: NATO.” *Reuters*. February 14, 2007.

[https://www.reuters.com/article/us-afghan/taliban-flee-battle-using-children-as-shields-nato-](https://www.reuters.com/article/us-afghan/taliban-flee-battle-using-children-as-shields-nato-idUSISL29139620070214)

[idUSISL29139620070214](https://www.reuters.com/article/us-afghan/taliban-flee-battle-using-children-as-shields-nato-idUSISL29139620070214), Cody, Edward. “Gaddafi using human shields, NATO officials say.” *The Washington Post*. April 6, 2011. [https://www.washingtonpost.com/world/nato-officials-gaddafi-using-human-](https://www.washingtonpost.com/world/nato-officials-gaddafi-using-human-shields/2011/04/06/AFQ0lipC_story.html)

[shields/2011/04/06/AFQ0lipC\\_story.html](https://www.washingtonpost.com/world/nato-officials-gaddafi-using-human-shields/2011/04/06/AFQ0lipC_story.html), Nash, George. “Human shields defend Belgrade bridges.” *United Press International*. April 15, 1999. [https://www.upi.com/Archives/1999/04/15/Human-shields-defend-Belgrade-](https://www.upi.com/Archives/1999/04/15/Human-shields-defend-Belgrade-bridges/2094924148800/)

[bridges/2094924148800/](https://www.upi.com/Archives/1999/04/15/Human-shields-defend-Belgrade-bridges/2094924148800/), and “Bush: Saddam Will Use Human Shields.” *Fox News*. February 10, 2003 and updated January 13, 2015. <https://www.foxnews.com/story/bush-saddam-will-use-human-shields>.

<sup>16</sup> Kittrie, Orde. “Help NATO by Holding Hamas Accountable for Terrorist War Crimes.” *The National Interest*.

May 19, 2021. <https://nationalinterest.org/feature/help-nato-holding-hamas-accountable-terrorist-war-crimes-185581>

While the U.S. government has taken other strong measures to combat Hamas and Hizballah in recent years, it has yet to sanction Hamas and Hizballah leaders for their use of human shields. Imposing such sanctions would make clear that the U.S. government does not tolerate the use of human shields and would encourage like-minded countries to take similar measures against this war crime. It would also augment the Biden Administration's efforts to undermine Hamas and weaken Hizballah.<sup>17</sup>

Thank you for your time and attention to this matter. We look forward to your response and encourage you to pursue additional investigations based on the recent conflict so that the law may be implemented as intended.

Sincerely,



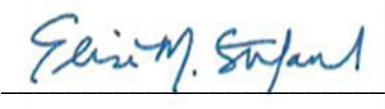
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Mike Gallagher  
Member of Congress



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Thomas Suozzi  
Member of Congress



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Elise Stefanik  
Member of Congress



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Steve Cohen  
Member of Congress



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Joe Wilson  
Member of Congress



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Brad Sherman  
Member of Congress

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<sup>17</sup> "Secretary Antony J. Blinken at a Press Availability." Office of the Spokesperson Press Release, *U.S. Department of State*. May 25, 2021. <https://www.state.gov/secretary-antony-j-blinken-at-a-press-availability-5/>. See also "The United States Impedes Hizballah Financing by Sanctioning Seven Individuals." Office of the Spokesperson Press Release, *U.S. Department of State*. <https://www.state.gov/the-united-states-impedes-hizballah-financing-by-sanctioning-seven-individuals/>.



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Vicky Hartzler  
Member of Congress

/s \_\_\_\_\_

Josh Gottheimer  
Member of Congress



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Liz Cheney  
Member of Congress



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Lee Zeldin  
Member of Congress



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Peter Meijer  
Member of Congress



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Mark E. Green M.D.  
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